IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

**WRIT PETITION NO : 15687 of 2004**

Between:

Dr. A. Satyanarayana, S/o. Late Nagaiah,
R/o. B-3, Senior Staff Quarters, Acharya N.G. Ranga
Agricultural University Campus,
Rajendra Nagar, Hyderabad - 500 030

**..... PETITIONER**

AND

1 The Government of Andhra Pradesh, rep. by its Secretary,
Agricultural & Co-operation Department,
Secretariat Buildings, Hyderabad.
2 The Registrar, Acharya N.G. Ranga Agricultural Univeristy,
Rajendra Nagar, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ Order or direction declaring the impugned proceedings U.O. Note No. 34782/Ser.II/AI/1996 dated 14-07-2004 issued by the second respondent as illegal, arbitrary and unjust and issue consequential direction to the second respondent to correct the date of birth of the petitioner in Service Register forthwith as 28-01-1947.

**Counsel for the Petitioner: MR.D.KRISHNA MURTHY**

**Counsel for the Respondent No.1: GP FOR AGRICULTURE**

**Counsel for the Respondent No.2: Mr. B.Siva Reddy**

**The Court made the following :**

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION No. 15687 of 2004

ORDER:

Heard Sri D.Krishna Murthy, learned counsel appearing for the petitioner and Sri B. Siva Reddy, learned standing counsel appearing on behalf of the second respondent and the learned Government Pleader for Co-operation appearing on behalf of the first respondent.

The petitioner, who is working as Director of Extension with the second respondent-university, filed this Writ Petition, *inter alia,* seeking for a Writ of Mandamus to declare the proceedings dated 14.07.2004 rejecting the petitioner's request for alteration of his date of birth in Service Register as 28.01.1947 as illegal and bad.

The case of the petitioner is that he was, in fact, born on 28.01.1947 at Gudavalli village in Guntur district. His father late Nagaiah died when he was too young. Even though his date of birth was entered as 28.01.1947 in the Register of Births and Deaths on 29.01.1947 itself, however, the petitioner's mother being an illiterate lady, while admitting the petitioner in school, gave his date of birth as 07.03.1945 and with such entry continued, the petitioner completed successfully S.S.L.C. in March, 1961 from M.N.M. High School, Gudavalli and later completed P.U.C. from A.C. College, Guntur under Andhra University, Waltair and later graduated in B.Sc.(Agriculture) from Banaras Hindu University, Varanasi and Post Graduation in M.Sc. (Agriculture)-Genetics and Plant Breeding from the same University in the year 1969. He obtained Ph.D. degree from the same University in the year 1973. However, later on, when he was informed by his elders that his actual date of birth is 28.01.1947 but not 07.03.1945, immediately he obtained birth extract from the Register of Births and Deaths from the office of Sub-Registrar, Cherukupalli, showing his date of birth as

28.01.1947 which was made on 29.01.1947. Thereafter, he applied to the Director of Public Instructions, A.P., Hyderabad, the Registrar, Andhra University, Waltair and the Registrar, Banaras Hindu University, Varanasi by issuing a notice for correction of his date of birth. The petitioner filed Original Suit No. 334 of 1974 on the file of the District Munsif, Repalle for declaration that his date of birth is 28.01.1947 and for consequential relief for correction thereof, which, after contest, was decreed as per the Judgment dated 24.10.1975, and the same became final. However, the said decree was not being implemented by the authorities. On the application made by the petitioner when he was appointed as Senior Research Assistant (vegetable breeding) in Indian Institute of Horticulture, Bangalore of ICAR, for correction based upon the said decree, the said authorities addressed the Director of Public Instruction, A.P., Hyderabad to verify as to the correction was carried out in the S.S.L.C. Register and yet, there was no response from the said Director. Subsequently, he joined services with the second respondent-university as Senior Scientist (Pulses) on 11.12.1981 and later filed an application to the second respondent-university on 18.05.1983 for correction of his date of birth in the Service Register on the basis of the said decree. Again, there was correspondence between the second respondent and the Director of Public Instructions, A.P., Hyderabad. Thereupon, the Controller of Examinations, Banaras Hindu University, Varanasi, as per the letter dated 23.03.1987, informed the Registrar of second respondent-university that date of birth of the petitioner was corrected as 28.01.1947 in the university records. However, the second respondent as per the letter dated 22.08.1989 asked the petitioner to approach the university for correction of the entries in the Service Register after the change effected in the S.S.L.C. Register. Ultimately, the Additional Joint Secretary to the Commissioner for Government Examinations, A.P., Hyderabad, as per the proceedings dated 17.12.1998, effected the correction of date of birth as 28.01.1947 from 07.03.1945 in the S.S.L.C. register. Thereafter, the petitioner approached the second respondent to effect the correction in his Service Register. Though the second respondent is an independent

autonomous body, it had referred the matter to the first respondent-Government whereupon the first respondent intimated that as contemplated under Sub Rule (5) of Rule 1 of the A.P. Public Employment (Recording and Alteration of date of birth) Rules, 1984 (for short, 'the Rules, 1984'), it is only the clerical errors, which can be corrected, and therefore, the petitioner's request can not be acceded to. The petitioner submitted another representation to the second respondent on 05.02.2004 stating that the Rules, 1984 have no application since the petitioner joined in service on 11.12.1981 and immediately filed application on 18.05.1983 for correction of date of birth, which was pending as on the date of enforcement of the said Rules. Further, having regard to the direction given on 22.08.1989 to approach the university for correction and the date of birth having already been corrected in the S.S.L.C. register, the second respondent can not refuse to make the correction by placing reliance on the Rules, 1984, which were not in force at the relevant point of time. Further, it is also his case that the correction is perfectly based upon a decree obtained by the petitioner much prior to entry into service with the university and the said decree having become final, there are no impending circumstances for correction of the date of birth. Ultimately, the second respondent rejected the petitioner's request on 14.07.2004 having regard to the decision of the Government which in turn trying to apply the Rules, 1984, which can not have any application on the facts and circumstances. Hence, the Writ Petition.

Contesting the petitioner's claim, the second respondent filed a comprehensive counter affidavit denying his entitlement to make any such bald and belated claim. However, in regard to the chequered events as pointed out by the petitioner, there is no denial nor there is any dispute including as to filing of the representation with the second respondent. It was pointed out that as per Rule 21 of the ANGRAU (conditions of service) Regulations, 1965, no such revision of age shall be allowed on any facts and circumstances, especially at a later

date. It is also pointed that as per G.O. Ms. No.1263, dated 06.05.1969 as amended by G.O. Ms. No.898 dated 29.08.1977, a student has to make application for any alteration of date of birth within a period of 3 years from date of completion of school education. Admittedly, the said application was not made so. In regard to the decree obtained by the petitioner, it is stated that though the Banaras Hindu University is made a party to the suit, the second respondent herein was not impleaded therein and therefore, the said decree can not be made applicable or can be said to be binding on it. Further, even as per the Rules, 1984 issued in G.O. Ms. No.165, dated 21.04.1984, it is only a clerical error which can be given effect to, but not otherwise. Therefore, the petitioner's claim is wholly belated and an after thought. Further, it is pointed that no proper explanation is forthcoming as to why the petitioner did not give the correct date of birth while entering into service with the second respondent and all the aforesaid events including the decree have been suppressed before the second respondent. Therefore, it is not open for him to resile back on the date of birth given while entering into service with the second respondent nor can he seek a direction to it for correction thereof. The proceedings all along in getting his date of birth changed, are not binding on the second respondent. Hence, there are no merits in the Writ Petition and the same is liable to be dismissed.

Sri D.Krishna Murthy, learned counsel appearing on behalf of the petitioner strenuously contended that having regard to the fact that the dispute as to the date of birth is a *bona fide* one and especially when the error was sought to be corrected immediately when he came to know of it much before his entry into service and the same being followed by a decree of competent court and when the educational authorities corrected the date of birth in the S.S.L.C. certificate, it is not open for the second respondent to reject the claim to correct the date of birth, and further the petitioner's claim can never be stated as suffering from any laches.

Sri B.Siva Reddy, learned standing counsel appearing on behalf of the second respondent, repelling the aforesaid contentions, submitted that the second respondent has nothing to do with any of the proceedings or steps taken by the petitioner earlier to his entry into service and especially when the second respondent is not a party to either the suit or any such proceedings. Further, the petitioner himself having shown the date of birth as 07.03.1945 while entering into service with the second respondent and no explanation forthcoming for such error occurred with the second respondent, it is not open for the petitioner to make any claim at this length of time, more so, when the petitioner is reaching age of superannuation by end of March, 2005.

Having considered the submissions made and on perusal of the material, the only question which has to be considered for decision in this case is as to whether on the facts and circumstances, the petitioner is entitled to have a correction of date of birth in the Service Register with the second respondent from 07.03.1945 to 28.01.1947 ?

There is no serious dispute in regard to the petitioner's education with the institutions and ultimately getting Ph.D. degree. Admittedly, the initial entry of date of birth in the school register, though it was said to have been made at the instance of his mother, was 07.03.1945. From the school education till obtaining of Ph.D. from the Banaras Hindu University, the said date of birth continued to remain. However, in the mean while, the petitioner filed a suit and obtained decree on 24.10.1975 to which the Banaras Hindu University was made a party. Subsequently, on 11.12.1981, the petitioner made entry into service with the second respondent. Admittedly, the petitioner himself gave the date of birth while entering into service with the second

respondent as 07.03.1945. It is only on 18.05.1983 the petitioner filed an application with the second respondent to give effect to the change in date of birth as sought to be made in pursuance of the decree and the subsequent orders passed by the concerned authorities including in the S.S.L.C. register. No doubt, it can not be said that there are no laches on the part of the petitioner in seeking correction of date of birth if there is any such error since the petitioner's initial application itself dates back to the early 1970's. The petitioner's approach to the Civil Court and obtaining decree and the follow up action taken with the educational authorities including the Banaras Hindu University, shows the petitioner's consistent effort to see that the said date is correct.

However, a glaring aspect which can not go unnoticed is as to why and how the petitioner restated or reiterated the very same date of birth viz. 07.03.1945, while entering into the service with the second respondent on 11.12.1981. Neither there was any attempt on the part of the petitioner to come out with any explanation at the time of furnishing such date of birth while entering into the service nor there is any material posted with the second respondent herein to show that there is existence of any such dispute pending consideration with the educational or civil authorities concerned including Banaras Hindu University or the Government. Necessarily, on the application filed by the petitioner on 18.05.1983 i.e. almost more than 2 years after entry into service, the petitioner was directed to approach the proper authorities.

Admittedly, the second respondent is not a party to the decree nor of course, could have impleaded as a party-defendant since the petitioner's entry into service with the second respondent was much later. However, that itself can not be a justification to rest any claim of such decrees obtained by the petitioner. Either in the affidavit filed in

support of the present Writ Petition or even in any of the applications filed with the second respondent herein subsequently seeking such correction in the Service Register, no whisper has been made or any explanation is forthcoming as to why the petitioner stamped the same date in stead of the correct date viz. 28.01.1947 with proper explanation in support. Though an argument was sought to be advanced to the effect that if the petitioner discloses about the dispute, possibly it was apprehended that he would not get any appointment with the second respondent. Be that as it may, that itself can not be a valid reason for not disclosing the correct date of birth or asserting the same with the second respondent herein. Even thereafter, the petitioner kept quiet for about two years. Even as on the date of filing of the application with the second respondent, the petitioner is not supported by any correct entries or orders from any of the authorities including the Director of School Education or the other University. Therefore, even the said application is nothing but only a continued attempt on the part of the petitioner just to lodge a request and keep the matters pending.

Sri B.Siva Reddy, the learned standing counsel appearing on behalf of the second respondent points out that if really the petitioner's correct date of birth was 28.01.1947, the petitioner would be hardly aged about 14 years as on the date of obtaining S.S.L.C. certification in March, 1961 from M.N.M. High School, Gudavalli and on the fact of it, it is highly improbable apart from impossibility for the petitioner to obtain any S.S.L.C. certificate at such tender age. On behalf of the second respondent, entire records have been produced before the court and even on perusal of the application filed with the second respondent for the first time on 18.05.1983, it is seen therefrom that the petitioner has not given any valid explanation much less reason as to why and how he could not come out with correct date of birth at the time of his entry into service with them on 11.12.1981. There is, thus, a clear suppression of fact by the petitioner and so, he can not make any claim seeking any indulgence. The petitioner's approach at

the very late hour by invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India can not be countenanced nor can be proved to be justified. In the circumstances, it has to be held that the petitioner, on its own making, is not entitled to make any claim for such change of date of birth in view of not only the laches and delays, but also the suppression of the date of birth with the second respondent and in the absence of any proper explanation or reason forthcoming from his side.

The Writ Petition is, accordingly, dismissed. No costs.

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(B.Prakash Rao, J.)

28.03.2005

DRK

Copy to:

1 The Government of Andhra Pradesh, rep. by its Secretary,
Agricultural & Co-operation Department,
Secretariat Buildings, Hyderabad.
2 The Registrar, Acharya N.G. Ranga Agricultural Univeristy,
Rajendra Nagar, Hyderabad.

3 Two CCs to the G.P. for Agriculture, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

4 Two CD copies.